

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

| | | |
|---------------------------------|---|-----------------|
| IN RE: Richard M. Miller, et ux |) | |
| Map 144-06-0, Parcel 39.00 |) | Davidson County |
| Residential Property |) | |
| Tax Year 2005 |) | |

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$753,500 | \$ -0- | \$753,500 | \$188,375 |

An appeal has been filed on behalf of the property owners with the State Board of Equalization on September 19, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated, §§ 67-5-1412, 67-5-1501 and 67-5-1505. A hearing was conducted on May 10, 2006 at the Davidson County Property Assessor's Office. Present at the hearing were Richard Miller, the taxpayer who represented himself and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a vacant lot located at Miller Cr. (Lot 2, Miller Subdivision) in Nashville, Tennessee.

The taxpayer, Mr. Miller, contends that the property is worth \$450,000 based on an appraisal which shows the land is worth \$750,000 but an estimate for \$250,000 for the repairs needed to make it marketable.¹ Mr. Miller believes the price should be lowered to cover that cost since the land is unusable as it is.

The assessor contends that the property should remain valued at \$753,500.

The taxpayers exhibits (collective exhibit #1) shows an unbuildable lot without the improvements. However, the germane issue is the value of the property as of January 1, 2005.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values. . ."

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$753,500 based upon the presumption of correctness attaching to the decision of the Davidson County Board of Equalization.

¹ Hardaway Construction shows \$250,000 for excavation, strong piping, sewer lines, water lines, gasoline, paving, supervision, contingency excluding electrical, curbs, rock walls, landscaping, building permits, bonds, rock excavation and utility relocation.

Mr. Miller testified that he has been unable to use the property due to the steepness of the lot. He stated that he has owned the property since 1972 when he purchased it for \$7,000 per acre.

Mr. Poling argues that the county has already given the land a reduction of 31% due to the topography.² It appears that Mr. Miller has already had the subject property addressed for the conditions he puts forth today he is unable to show the value should be further decreased. Mr. Miller also argues that the land values are elevated because current residents in the area have purchased excess property adjacent to their own to maintain their privacy at exorbitant prices.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

With respect to the issue of market value, the administrative judge finds that Mr. Miller simply introduced insufficient evidence³ to affirmatively establish the market value of subject property as of January 1, 2005, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$753,500 | \$ -0- | \$753,500 | \$188,375 |

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of

² The card shows the property was originally on the roll for \$1,092,000, the county board applied the adjustment to bring it to the present value.

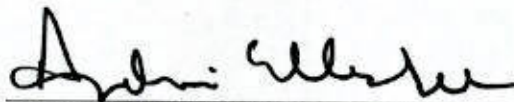
³ Mr. Miller failed to produce comparable sales of vacant land in the area or anything to justify or support his position. In fact, his own appraisal was in line with the county's values.

the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 9th day of June, 2006.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Richard M. Miller
Jo Ann North, Assessor of Property